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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,425	04/16/2004	Sung Yup Lee	2950-0288P	9940
2292	7590	05/04/2007		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER SHEN, KEZHEN	
			ART UNIT 2609	PAPER NUMBER
			NOTIFICATION DATE 05/04/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/825,425	Applicant(s) LEE, SUNG YUP	
	Examiner Kezhen Shen	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-5, 7-8, 10, 15-16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Obinata et al., US 2002/0176337 A1.

Regarding Claim 1 Obinata et al. teaches a method for controlling a maximum access speed of an optical disc, comprising the steps of identifying a kind of a loaded optical disc ([0031] format identification information based on the analysis of the disc) and controlling a maximum access speed of the optical disc according to the identified kind of the optical disc ([0033] transmits the determined speed to the disc drive as a drive speed command signal).

Regarding Claim 4 Obinata et al. teaches The method as set forth in Claim 1, wherein in the step of controlling a maximum access speed of the optical disc according to the identified kind of the optical disc, the controlled maximum access speed is a maximum playback speed of the optical disc during a reading of data recorded on the optical disc ([0032] the analysis of the information read out from the optical disc is required for playback).

Regarding Claim 5 Obinata et al. teaches the method as set forth in Claim 1, further comprising the step of determining a type of the optical disc, prior to performing the step of identifying a kind of a loaded optical disc ([0031] format identification information based on the analysis of the disc).

Regarding Claim 7 Obinata et al. teaches a method for controlling a maximum access speed of an optical disc, comprising the steps of determining a type of a loaded optical disc ([0031] format identification information based on the analysis of the disc) and controlling a maximum access speed of the optical disc according to a user input, if the step of determining a type of a loaded optical disc determines that the optical disc is of a certain type ([0038] a rotational speed specified by the user).

Regarding Claim 8 Obinata et al. teaches the method as set forth in Claim 7, wherein in the step of controlling a maximum access speed of the optical disc according to a user input, if the step of determining a type of a loaded optical disc determines that the optical disc is of a certain type, if there is no user input, the maximum access speed is decelerated to be equal to a predetermined access speed ([0035], [0038] the disc access speed is prescribed for each information format and the access speed can be set beforehand).

Regarding Claim 10 Obinata et al. teaches the method as set forth in Claim 7, wherein in the step of controlling a maximum access speed of the optical disc according to a user input, if the step of determining a type of a loaded optical disc determines that the optical disc is of a certain type, the controlled maximum access speed is a maximum playback speed of the optical disc during

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a reading of data recorded on the optical disc ([0038] the reading of the rotational speed is required for playback).

Regarding Claim 15 Obinata et al. teaches a method for controller an access speed of a disc, the method comprising determining a type of a loaded disc, determining if there is a user input for setting an access speed of the disc, based on the result of the step of the method comprising determining a type of a loaded disc and varying the access speed of the disc according to the user input ([0037], [0038] a process to identify the format of the optical disc, to read a rotational speed initialized by a user and to set the rotational speed of the disc to the mode specified by the user).

Regarding Claim 16 Obinata et al. teaches the method as set forth in Claim 15, further comprising varying the access speed of the disc to one fixed speed if the step of determining if there is a user input for setting an access speed of the disc, based on the result of the step of the method comprising determining a type of a loaded disc determines that there is no user input ([0038] a predetermined access speed can be set and used).

Regarding Claim 20 Obinata et al. teaches an apparatus for controller an access speed of a disc, the apparatus comprising first means for determining a type of a loaded disc, (102 of Figure 4, [0039]) second means for determining if there is a user input for setting an access speed of the disc, based on the result of the determining by the first means (101 of Figure 4, [0038]), and third means for varying the access speed of the disc according to the user input (103 of Figure 4, [0039]).

3. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Han et al., US 2003/0058767 A1.

Regarding Claim 19 Han et al. teaches an apparatus for controlling an access speed of a disc, the apparatus comprising first means for determining a type of a loaded disc, (S11 of Figure 2) second means for determining a maker of the disc based on the result of the determining by the first means, (S12 of Figure 2, [0027]) and third means for varying an access speed of the disc according to the determined maker of the disc (S13 of Figure 2, [0029]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2, 6, 11-14 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obinata et al., US 2002/0176337 A1 in view of Schreurs et al., 2003/0058765 A1.

Regarding Claim 2 Obinata et al. fails to specifically teach the method as set forth in Claim 1, wherein in the step of identifying a kind of a loaded optical disc, the kind of the optical disc is identified by referring to either disc maker information or disc ID information. However, Schreurs et al. teaches the process of identifying the disc maker information or disc ID for ensure the optimal write strategy for a particular disc used (Schreurs et al. [0006].

Therefore, the combined teaching of Obinata and Schreurs would have rendered obvious using the process of identifying the manufacturer information or disc ID information to ensure optimal write strategy for a particular disc used (Schreurs et al. [0006].

Regarding Claim 6 Obinata et al. fails to further teach the method as set forth in Claim 5, wherein the step of determining a type of the optical disc, prior to performing the step of identifying a kind of a loaded optical disc, determines whether or not the optical disc is a one-time recordable CD-R. However, Schreurs et al. teaches CD-R as a disc format to ensure proper disc format compensation (Schreurs et al. [0003] CD-R is an example of a standardized disc format).

Therefore, the combined teaching of Obinata and Schreurs would have rendered obvious the step of determining the CD-R format to ensure proper disc format compensation (Schreurs et al. [0003] CD-R is an example of a standardized disc format).

Regarding Claim 11 Obinata et al. fails to further teach the method as set forth in Claim 7, wherein in the step of controlling a maximum access speed of the optical disc according to a user input, if the step of determining a type of a loaded optical disc determines that the optical disc is of a certain type, if there is no user input, the maximum access speed is varied according to disc maker information. However, Schreurs et al. teaches how to identify the disc maker and vary the access speed accordingly to ensure optimal disc write strategy (Schreurs et al. [0006]).

Therefore, the combined teaching of Obinata and Schreurs would have rendered obvious the step of identifying the disc information and vary the maximum access speed to ensure optimal disc write strategy (Schreurs et al. [0006] an identification process of the manufacturer by the reading in the lead-in portion of the disc and vary the maximum access speed accordingly).

Regarding Claim 12 Obinata et al. fails to further teach a method for controlling an access speed of a disc, the method comprising determining a type of a loaded disc, determining a maker of the disc based on the result of the step of determining a type of a loaded disc and varying an access speed of the disc according to the determined maker of the disc. However, Schreurs et al. teaches to determine the maker of the disc and vary an access speed of the disc

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according to the determined maker of the disc to ensure optimal disc write strategy (Schreurs et al. [0006]).

Therefore, the combined teaching of Obinata and Schreurs would have rendered obvious the steps of determining the maker of the disc and varying the access speed according to the determined maker by identifying the disc to ensure optimal disc write strategy (Schreurs et al. [0006]).

Regarding Claim 13, see the analysis for claim 6.

Regarding Claim 14, see the analysis for claim 2.

Regarding Claim 17, see the analysis for claim 12.

Regarding Claim 18, see the analysis for claim 2.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obinata et al., US 2002/0176337 A1 in view of applicant's admitted related art.

Regarding Claim 3 Obinata et al. fails to specifically teach the method as set forth in Claim 1, wherein in the step of controlling a maximum access speed of the optical disc according to the identified kind of the optical disc, the maximum access speed is controlled by subtracting a predetermined access speed from an initial allowable maximum access speed of an optical disc apparatus by referring to maximum access speed control information for each disc maker stored in a memory of the optical disc apparatus. However, applicant's admitted prior art discloses this process.

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Therefore, one of ordinary skill in the art would be motivated to include the process of lowering the allowable maximum access speed (Applicant's admitted related art [0008], lowering the allowable maximum access speed of the optical disc apparatus by subtracting a predetermined data reading/writing speed from it, and apply the lowered access speed to the disc speed.) in the maximum access speed control information (Obinata et al. [0030] a media corresponding table is stored in the optical drive and is used to look up the drive speed of a disc drive).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obinata et al., US 2002/0176337 A1 in view of Liu, US 6,909,675 B2.

Regarding Claim 9 Obinata et al. fails to further teach the method as set forth in Claim 7, wherein in the step of controlling a maximum access speed of the optical disc according to a user input, if the step of determining a type of a loaded optical disc determines that the optical disc is of a certain type, the maximum access speed is controlled to be equal to an allowable maximum access speed of an optical disc apparatus by the user's operation of a specified button equipped in the optical disc apparatus. However, Liu teaches a method for switching an optical disc apparatus to different accessing speeds by only pressing the control button. Therefore, one of ordinary skill in the art is motivated to place a button on the optical disc apparatus to vary the access speeds (Liu [Col. 1 Line 34-39] a method for switching an optical disc apparatus to different accessing speeds by only pressing the control button on the optical disc

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apparatus) by a user input (Obinata et al. [0038] a rotational speed specified by the user).

Examiner's Note

The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kezhen Shen whose telephone number is (571) 270-1815. The examiner can normally be reached on Monday - Friday 7:30 am to 5:30 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kezhen Shen



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SUPERVISORY PATENT EXAMINER